

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB DEPRATU**, on March 22, 2001 at 8:00 A.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Bob DePratu, Chairman (R)
Sen. Alvin Ellis Jr., Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Mack Cole (R)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Bill Glaser (R)
Sen. Dan Harrington (D)
Sen. Emily Stonington (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Branch
Deb Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: Senate Bill 501, 3/17/2001
Executive Action: None

HEARING ON SENATE BILL 501

Sponsor: SENATOR LORENTS GROSFIELD, SD 13, Big Timber

Proponents: Mary Whittinghill, Montana Taxpayer Association; Webb Brown, Montana Chamber of Commerce; Gail Abercrombie, Montana Petroleum Association; Don Allen, Cenex; John Youngberg, Montana Farm Bureau; Ronda Carpenter, Montana Housing Providers

Opponents: None

Opening Statement by Sponsor: SENATOR GROSFIELD presented the bill. He described the significant changes to property taxes and how mills are determined by the county. He described newly taxable property. Examples would be subdivisions or agricultural land to non-agricultural land. There is potential for changes of mills. He discussed the new class 13 property. The mills calculated at the local level increased significantly in a few counties, especially Cascade County. The bill tries to remedy this and asks the department to address the reclassification and the mills. **{Tape : 1; Side : A; Approx. Time Counter : 0 - 8.2}**

Proponents' Testimony: Mary Whittinghill, Montana Taxpayer Association, described the bill. She presented an amendment. **EXHIBIT(tas65a01)** She explained what the bill did. When the department certified the value of newly taxable to the taxing jurisdictions where there were generation facilities, it created an increase in the floating mills. She described the mill float by Cascade County. **EXHIBIT(tas65a02)** SB 184 set up a method to calculate the floating mills that started with revenue from the prior year. She felt with this legislation, it would hold the counties harmless and also insures that in the future taxpayers are paying the appropriate mill level that the Legislature intended last Session. **EXHIBIT(tas65a03) {Tape : 1; Side : A; Approx. Time Counter : 8.7 - 16.3}**

Webb Brown, Montana Chamber of Commerce, said the bill clarified the intent of the newly taxable property in the future.

Gail Abercrombie, representing the Petroleum Association, stated it was important to settle this issue now as to the intent and to correct this calculation. The case of Exxon Mobile and their refinery, for seven years, were charged \$200,000 for the Laughlin Fire District that they deserved to get back. They settled on the Statute of Limitations of \$171,000 but we do not want to get into that situation again by letting this go on. This is a fix that needs to be done, but it is not retroactive so it will not cause a refund. **{Tape : 1; Side : A; Approx. Time Counter : 16.3 - 18.4}**

Don Allen, representing Cenex, testified in favor of the bill. He explained that Cenex had the Front Range Pipeline in Cascade County that had this problem. He felt this was a fair way to resolve the issue. **{Tape : 1; Side : A; Approx. Time Counter : 18.4 - 19.1}**

John Youngberg, representing the Montana Farm Bureau, testified in support of the bill. He thought this was a fair resolution of the situation.

Ronda Carpenter, Montana Housing Providers, Landlords Association and the Montana Association of Realtors, supported the bill. She pointed out that 50% of this unintended tax increase was levied on residential property in Cascade County. This would be a fair way to solve this problem. This was not a large enough amount to issue refund checks. It is a mill levy that should not go on.

{Tape : 1; Side : A; Approx. Time Counter : 19.1 - 20.3}

Informational Testimony: **Judy Paynter**, Department of Revenue, said the department was neutral on the bill. However, a correction was not needed on this issue in their view. This was not an issue of reclassification. She described the legal memorandum which delineated class 13 property and the legal analysis that followed and the intent to give no undue windfall. She felt there had been due diligence by the department. **{Tape : 1; Side : A; Approx. Time Counter : 20.3 - 22.9}**

Gordon Morris, Montana Association of Counties, pointed out there had been no assumption of any impropriety.

Opponents' Testimony: None

Questions from Committee Members and Responses: **SENATOR**

STONINGTON asked if the generation facilities that were in class 9 and moved to class 13, were then reappraised as newly taxable property. **Ms. Whittinghill** replied the newly taxable or centrally assessed properties, including class 13, would calculate the difference from the prior year to the current year. When the rules were adopted, taking just the difference from one year to the next, the beginning of the year would have been zero because it was a new class 13. Taking the entire difference, would have created huge effects statewide. That was the reclassification component as it would have also included all the telecommunication companies that were moved from class 9 to 13. The department minimized the effect of this by creating what the class 13 would have looked like in the beginning of the year from the market values from the prior year in class 9. This is where unforeseen consequences occurred - when there was a sale of a property that has been around for 100 years and an application had not been anticipated. Historical use by the department was considered in order to capture newly taxable. What it captured was a huge component of reappraisal which is clearly not newly taxable under statute. She noted it was the association's intent to have the department adopt some emergency rules, that at a minimum the reclassification issue was removed. However, there

was the reappraisal in that situation and that accounted for the difference in figures. She described the difficulty encountered by the county in determining the number to use. That was why the county decided to float their mills to the maximum. **{Tape : 1; Side : A; Approx. Time Counter : 22.9 - 28.8}**

SENATOR STONINGTON discussed the issue of newly taxable property, which was new property being added to an existing piece, not new value added to the basic amount. She asked how the rules were set in the department to distinguish between those two systems.

Ms. Paynter said the rules in the department were not set to distinguish between those two systems. The rules have just been the difference between the prior year and this year and that picks up reappraisal value. This bill is making a policy decision that the Department of Revenue will take more staff time and try to go in and look at construction work in progress, go through the records individually when a sale occurs on a property and set up a system to look at the construction work in progress.

SENATOR STONINGTON clarified that the way this is done now is to take reappraisal and new construction into the definition of newly taxable property. That would be true for residential or all classes of property at whatever point their reappraisal cycle fits. **Ms. Paynter** replied that was true. **SENATOR STONINGTON** clarified the policy decision then was whether the department should distinguish growth in market value and new construction and that would take more administrative work. **Ms. Paynter** replied the new calculation on the mill levy, only pertained to class 13, would not require any calculations going backwards. Going forward, all centrally assessed properties are considered - which are more classes of property, it does not get into the class 3, 4, 10 or 8. The department's position would be to take the lead from the tax committee as to policy direction.

SENATOR ELLINGSON asked if this bill just dealt with reclassified property from one class to another. **Ms. Paynter** noted that the department did not treat the new class 13 as reclassified. Centrally assessed property is reappraised every year. The reason its value went up so much is because this kind of property in general does not have many sales comparisons when sold, as that is a better indicator of value.

SENATOR ELLINGSON asked where, in existing law, did the value of reappraisal of newly taxable property for the purposes of raising taxes considered. **Ms. Paynter** said the reality in the way the rules work, it does get included. The concept of newly taxable property started a few years ago. The Department of Revenue explained to the Legislature that there was no system that could track newly taxable and newly constructed property. They gave the department rule making authority to do that. The department

has been trying to get a new property tax system that would track it. That is how it came about, because of a lack of a system to handle what the Legislature hoped to achieve. If there was a system, the department would not include that increase in market value. That is why the department stands neutral on the bill.

{Tape : 1; Side : B; Approx. Time Counter : 2 - 5.3}

SENATOR HARRINGTON asked if Cascade County would have a loss. **Mr. Morris** replied Cascade County would have to roll back the calculated value of their mills to correct the situation. **{Tape : 1; Side : B; Approx. Time Counter : 5.3 - 18.4}**

SENATOR STONINGTON asked for an explanation of the amendments. **Ms. Whittinghill** explained the counties she had visited were determining what adjustment should be made by the counties. This needed to be fairly applied to all taxing jurisdictions into the future that the percent should be 101. She referred to the spread sheet that showed Cascade County. After the department re-certified the taxable value, exclusive of reappraisal, those taxing jurisdictions would recalculate that revenue base and use that for determining the maximum mill levy for the tax year 2001. **Mr. Walborn**, from the department, explained the amendment. **{Tape : 1; Side : B; Approx. Time Counter : 18.4 - 20.6}**

SENATOR ELLINGSON said he was concerned about the issue of reappraisal and the increase in appraised value and how it affected newly taxable property. He felt this was not intended in SB 184. He asked if this bill should provide that the difference of value based on reappraisal should not be included within the newly taxable property. **SENATOR GROSFIELD** replied this issue would need to recognize the current technological insufficiencies in the way the department tracked these properties. **Ms. Paynter** described how the department was handling these properties now, until a new system could be established by 2004. **{Tape : 1; Side : B; Approx. Time Counter : 20.6 - 26.1}**

SENATOR ELLINGSON noted that as long as the increase in market value was included in the definition of newly taxable property, the impact to local governments would be higher authorized mills so they would be able to raise more revenue. **Ms. Paynter** replied that if reappraisal value ended up in newly taxable property, that would be the impact. **{Tape : 1; Side : B; Approx. Time Counter : 26.1 - 26.5}**

Closing by Sponsor: **SENATOR GROSFIELD** closed. He noted this was a complex issue, which tried to clarify how this was done. The department did what they needed to do with respect to the bill

that passed previously. It did have a lot of unintended consequences. This potentiality had not been discussed regarding the class 13 and the sale of that property. The department did the best they could. If class 13 started at zero, it would have a very significant impact. It would be better in a few years when there is a system in place to track this. **{Tape : 1; Side : B; Approx. Time Counter : 26.5 - 28.6}**

ADJOURNMENT

Adjournment: 9:02 A.M.

SEN. BOB DEPRATU, Chairman

DEB THOMPSON, Secretary

BD/DT

EXHIBIT (tas65aad)